

GAIL C. TRABISH, ESQ. (#103482)  
BOORNAZIAN, JENSEN & GARTHE  
A Professional Corporation  
555 12<sup>th</sup> Street, Suite 1800  
P. O. Box 12925  
Oakland, CA 94604-2925  
Telephone: (510) 834-4350  
Facsimile: (510) 839-1897

Attorneys for Defendant  
TARGET STORES, a division  
of Target Corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROBERTA STANTON

Plaintiff,

vs.

TARGET CORPORATION, and DOES 1 to  
10, inclusive,

Defendants.

**ORIGINAL FILED**  
07 JUL -9 PM 1:06  
RICHARD W. WIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**JCS**  
**C-07-3543**

Case No. [San Mateo County Superior Court Case No.: CIV 461266]

**PETITION FOR REMOVAL OF  
ACTION PURSUANT TO 28 U.S.C.  
§1441(b) [DIVERSITY]**

Complaint Filed: March 2, 2007

TO THE CLERK OF THE ABOVE ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant TARGET STORES, a division of Target Corporation (hereinafter "Target"), hereby moves to this Court the state court action described below.

**I. JURISDICTION**

1. Defendant TARGET is informed and believes that plaintiff Roberta Stanton is a citizen of the State of California, and was at the time of the filing of the complaint and this Petition for Removal.

2. Defendant TARGET is a Minnesota corporation, whose principal place of business is in Roseville, Minnesota.

1           3.       TARGET is a publicly held corporation whose Chairman and Chief Executive  
2 Officer is Bob Ulrich.

3           4.       Defendant TARGET is not a citizen of the state in which this action is pending.

4           5.       The matter in controversy exceeds the sum of \$75,000, exclusive of interest,  
5 attorney's fees and costs.

6           6.       The Court has jurisdiction by virtue of 28 U.S.C. §1332 and 28 U.S.C. §1441(b).  
7

8                               **II.        GROUNDS FOR REMOVAL**

9           7.       On March 2, 2005, a civil action was commenced in the San Mateo County  
10 Superior Court, Unlimited Jurisdiction, of the State of California, entitled *Roberta Stanton v.*  
11 *Target Corporation, et al.*, Action No. CIV 461266. A true and correct copy of the summons and  
12 complaint is attached hereto and marked as **Exhibit A**.

13           8.       Defendant TARGET was served with a copy of said Complaint on March 23, 2007.  
14 A true and correct copy of the Proof of Service is attached hereto and marked as **Exhibit B**.

15           9.       Defendant TARGET has answered plaintiff's complaint. A true and correct copy of  
16 the answer is attached hereto and marked as **Exhibit C**.

17           10.      This Court has original jurisdiction of this action pursuant to 28 U.S.C. §1332, and  
18 the complaint is one which may be removed to this Court by Defendant TARGET pursuant to the  
19 provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of different states, and  
20 the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

21           11.      Defendant TARGET is the only named defendant in this action, and it is informed  
22 and believes that no other defendants have been served in this action.

23       ///

24       ///

25       ///

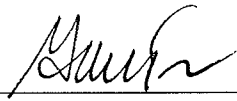
26       ///

27       ///

1 Based on the foregoing, Defendant TARGET respectfully requests that this Court accept  
2 removal of this action.

3 DATED: July 9, 2007

4 BOORNAZIAN, JENSEN & GARTHE  
A Professional Corporation

5  
6 By:   
7 GAIL C. TRABISH, ESQ.  
8 Attorneys for Defendant  
9 TARGET STORES, a division of  
Target Corporation

10 24901\409072

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:****(AVISO AL DEMANDADO):**

Target Corporation, Does 1 to 10, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:****(LO ESTA DEMANDANDO EL DEMANDANTE):**

Roberta Stanton

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**ENDORSED FILED  
SAN MATEO COUNTY**

**MAR 2 2007**

Clerk of the Superior Court

By M. Javillonar  
DEPUTY CLERK

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

*Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.*

The name and address of the court is:

*(El nombre y dirección de la corte es):*

San Mateo County Courts  
400 County Center, 2nd Floor  
Redwood City, CA 94063

Unlimited Civil

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

*(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):*

Wayne R. Wolski, Esq.  
713 Spring Street  
Santa Rosa, CA 95404

(707) 542-4519

DATE:

*(Fecha)***MAR 2 2007****JOHN C. FITTON**

Clerk, by

*(Secretario)***M. JAVILLONAR**

Deputy

*(Adjunto)**(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)**(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).*

[SEAL]

**NOTICE TO THE PERSON SERVED: You are served**

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify):

under:

- Target Corporation*
- ☒ CCP 416.10 (corporation)  
☐ CCP 416.20 (defunct corporation)  
☐ CCP 416.40 (association or partnership)  
☐ other (specify):

- ☐ CCP 416.60 (minor)  
☐ CCP 416.70 (conservatee)  
☐ CCP 416.90 (authorized person)

- ☒ by personal delivery on (date):

Page 1 of 1

**EXHIBIT A**

**FOR COURT USE ONLY**

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address):  <b>Wayne R. Wolski, Esq.</b>  <b>Law Offices of Wayne R. Wolski</b>  <b>713 Spring Street</b>  <b>Santa Rosa, CA 95404</b></p> <p>TELEPHONE NO.: <b>(707) 542-4519</b>      FAX NO. (Optional): <b>(707) 542-7139</b></p> <p>E-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name): <b>Plaintiff Roberta Stanton</b></p>	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center; font-size: 1.2em;">SBN# 118600</p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo</b></p> <p>STREET ADDRESS: <b>400 County Center, 2nd Floor</b></p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE: <b>Redwood City, CA 94063</b></p> <p>BRANCH NAME: <b>Unlimited Civil</b></p> <p>PLAINTIFF: <b>Roberta Stanton</b></p> <p>DEFENDANT: <b>Target Corporation</b></p>	
<p><input checked="" type="checkbox"/> DOES 1 TO 10, inclusive</p> <p><b>COMPLAINT-Personal Injury, Property Damage, Wrongful Death</b></p> <p><input type="checkbox"/> AMENDED (Number):</p> <p>Type (check all that apply):</p> <p><input type="checkbox"/> MOTOR VEHICLE      <input checked="" type="checkbox"/> OTHER (specify): <b>Negligence, Premises Liability</b></p> <p><input type="checkbox"/> Property Damage      <input type="checkbox"/> Wrongful Death</p> <p><input type="checkbox"/> Personal Injury      <input type="checkbox"/> Other Damages (specify):</p>	
<p><b>Jurisdiction (check all that apply):</b></p> <p><input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE</p> <p>Amount demanded      <input type="checkbox"/> does not exceed \$10,000</p> <p>   <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000</p> <p><input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)</p> <p><input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint</p> <p><input type="checkbox"/> from limited to unlimited</p> <p><input type="checkbox"/> from unlimited to limited</p>	
<p>CASE NUMBER:</p> <p style="font-size: 1.5em; font-weight: bold;">CIV 46 1266</p>	

ENDORSED FILED

SAN MATEO COUNTY

MAR 2 2007

Clerk of the Superior Court

By M. Javillonar

DEPUTY CLERK

1. Plaintiff (name or names): **Roberta Stanton**

alleges causes of action against defendant (name or names): Target Corporation, Does 1 to 10, inclusive

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name) :

- (1) ☐ a corporation qualified to do business in California  
 (2) ☐ an unincorporated entity (describe) :  
 (3) ☐ a public entity (describe) :  
 (4) ☐ a minor ☐ an adult  
     (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed  
     (b) ☐ other (specify) :  
 (5) ☐ other (specify) :

b. ☐ **except plaintiff (name) :**

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe) :
- (3) ☐ a public entity (describe) :
- (4) ☐ a minor      ☐ an adult
- (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
- (b) ☐ other (specify) :
- (5) ☐ other (specify) :

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

Stanton v. Target

E NUMBER:

4. ☐ Plaintiff (name):  
is doing business under the fictitious name (specify):  
  
and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. ☒ except defendant (name):  
Target Corporation  
(1) ☐ a business organization, form unknown  
(2) ☒ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):
- c. ☐ except defendant (name):  
(1) ☐ a business organization, form unknown  
(2) ☐ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):
- b. ☐ except defendant (name):  
(1) ☐ a business organization, form unknown  
(2) ☐ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):
- d. ☐ except defendant (name):  
(1) ☐ a business organization, form unknown  
(2) ☐ a corporation  
(3) ☐ an unincorporated entity (describe):  
(4) ☐ a public entity (describe):  
(5) ☐ other (specify):
- ☐ Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. ☒ Doe defendants (specify Doe numbers): 1-10 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b. ☒ Doe defendants (specify Doe numbers): 1-10 are persons whose capacities are unknown to plaintiff.
7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):
8. This court is the proper court because
- a. ☐ at least one defendant now resides in its jurisdictional area.
- b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.
- d. ☐ other (specify):
9. ☐ Plaintiff is required to comply with a claims statute, and
- a. ☐ has complied with applicable claims statutes, or
- b. ☐ is excused from complying because (specify):

SHORT TITLE:  
Stanton v. Target

E NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):
- a. ☐ Motor Vehicle
  - b. ☒ General Negligence
  - c. ☐ Intentional Tort
  - d. ☐ Products Liability
  - e. ☒ Premises Liability
  - f. ☐ Other (specify):
11. Plaintiff has suffered
- a. ☒ wage loss
  - b. ☐ loss of use of property
  - c. ☒ hospital and medical expenses
  - d. ☒ general damage
  - e. ☐ property damage
  - f. ☒ loss of earning capacity
  - g. ☐ other damage (specify):
12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- a. ☐ listed in Attachment 12.
  - b. ☐ as follows:
13. The relief sought in this complaint is within the jurisdiction of this court.
14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
- a. (1) ☒ compensatory damages
  - (2) ☐ punitive damages
- The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):
- (1) ☒ according to proof
  - (2) ☐ in the amount of: \$
15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: February 28, 2007

Wayne R. Wolski, Esq.  
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

Stanton v. Target

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION- General Negligence

Page 4

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Roberta Stanton

alleges that defendant (name): Target Corporation

☒ Does 1 to 10

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): April 20, 2005

at (place): Redwood City, San Mateo County, California

(description of reasons for liability) :

On or about April 20, 2005, in Redwood City, San Mateo County, California, Plaintiff was acting reasonably and foreseeably in performing her customary duties assembling display furniture on behalf of her employer, National Marketing Services, at a Target retail store owned, maintained, operated and controlled by Defendants and each of them. The incident happened at approximately 11:00 p.m. At that time and place, Defendants and each of them had a duty to keep the premises safe and in a non-defective condition for persons on the premises. Instead, Defendants and each of them carelessly and negligently spilled and/or failed to clean up a slippery substance, perhaps a cleaning solution, upon the floor of the premises, causing Plaintiff to slip and fall and, in so doing, sustain serious and severe injuries in an amount in excess of the jurisdictional minimum of this Court and in an amount according to proof at time of trial. Further, at that time and place, Defendants and each of them were maintaining the premises in a dangerous and unsafe condition for persons such as Plaintiff, who was foreseeably upon Defendants' premises as a guest and invitee of Defendants and each of them. As a direct and proximate result of the behavior of Defendants and each of them and the condition of the premises, Plaintiff was caused to suffer severe and permanent injuries to her right leg and hip.



SHORT TITLE:

Stanton v. Target

CASE NUMBER:

SECOND  
(number)

## CAUSE OF ACTION- Premises Liability

Page 5

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): Roberta Stanton

alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.

On (date): April 20, 2005

plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury)

On or about April 20, 2005, in Redwood City, San Mateo County, California, Plaintiff was performing her regular and customary work duties on behalf of her employer and conducting an inventory at a Target Store between 10:00 and 11:00 p.m. on that date. Defendants and each of them at that time negligently, carelessly and recklessly failed to maintain a safe surface on the floor of the store they owned, operated, maintained and controlled. Namely, Defendants and each of them allowed a substance, possibly a cleaning substance, to be spilled upon the floor and otherwise and to remain there during the time that Plaintiff was conducting her tasks with the permission of and cooperation with and at the direction of Target personnel on that evening. Further, Defendants and each of them at that time and on that date maintained a unsafe and dangerous condition upon their property namely the liquid substance upon the floor within an aisle of the Target Store. The conditions as above described caused Plaintiff to fall and to severely injure herself, causing her severe and permanent injuries to include medical expenses, loss of work, loss of earning capacity and other damages according to proof at time of trial.

Prem.L-2. ☒ **Count One-Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):

Target Corporation

☒ Does 1 to 10

Prem.L-3. ☐ **Count Two-Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):

☐ Does \_\_\_\_\_ to \_\_\_\_\_Plaintiff, a recreational user, was ☐ an invited guest ☐ a paying guest.

Prem.L-4. ☐ **Count Three-Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

☐ Does \_\_\_\_\_ to \_\_\_\_\_

a. ☐ The defendant public entity had ☐ actual ☐ constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.

b. ☐ The condition was created by employees of the defendant public entity.

Prem.L-5. a. ☒ **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

Target Corporation

☒ Does 1 to 10

b. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are ☐ described in attachment Prem.L-5.b ☐ as follows (names):

**CT CORPORATION**  
A WoltersKluwer Company

**Service of Process  
Transmittal**  
03/23/2007  
Log Number 512071326

**TO:** Carter Leuty  
Target Corporation  
1000 Nicollet Mall  
Minneapolis, MN, 55403-

**RE:** Process Served in California

**FOR:** Target Corporation (Domestic State: MN)

RECEIVED ON

MAR 27 2007

FORWARDED TO AWRGAT  
BJ/554381F

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

**TITLE OF ACTION:** Roberta Stanton, Pkf. vs. Target Corporation, et al., Dfts.

**DOCUMENT(S) SERVED:** Summons, Complaint, Attachment(s), Stipulation and Order Form, Statement Form, Notice of Case Management Conference, Request Form

**COURT/AGENCY:** San Mateo County, Redwood City, Superior Court, CA  
Case # CIV461266

**NATURE OF ACTION:** Personal Injury - Slip/Trip and Fall - On or about April 20, 2005

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Los Angeles, CA

**DATE AND HOUR OF SERVICE:** By Process Server on 03/23/2007 at 15:55

**APPEARANCE OR ANSWER DUE:** Within 30 days after service - file written response // July 12, 2007 at 9:00 a.m. - Case Management Conference

**ATTORNEY(S) / SENDER(S):** Wayne R. Wolski  
Law Offices of Wayne R. Wolski  
713 Spring Street  
Santa Rosa, CA, 95404  
707-542-4519

**ACTION ITEMS:** SOP Papers with Transmittal, via Fed Ex 2 Day, 798136381427

**SIGNED:** C T Corporation System  
**PER:** Dianne Christman  
**ADDRESS:** 818 West Seventh Street  
Los Angeles, CA, 90017  
**TELEPHONE:** 213-337-4615

Received on 3-26-07 at 12<sup>30</sup>pm  
via Fed Ex forwarded on 3-26-07  
at 12<sup>30</sup>pm to Sedgwick by Terri Morgan.

Page 1 of 1 / NF

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of the package only, not of its contents.

**EXHIBIT B**

1 GAIL C. TRABISH, ESQ. (#103482)  
2 BOORNAZIAN, JENSEN & GARTHE  
3 A Professional Corporation  
4 555 12<sup>th</sup> Street, Suite 1800  
5 P. O. Box 12925  
6 Oakland, CA 94604-2925  
7 Telephone: (510) 834-4350  
8 Facsimile: (510) 839-1897

9 Attorneys for Defendant  
10 TARGET STORES, a division  
11 of Target Corporation

**ENDORSED FILED**  
**SAN MATEO COUNTY**

APR 23 2007

Clerk of the Superior Court  
By M. YOUNG  
DEPUTY CLERK

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF SAN MATEO

14 ROBERTA STANTON

15 Plaintiff,

16 vs.

17 TARGET CORPORATION, and DOES 1 to  
18 10, inclusive,

19 Defendants.

Case No.: CIV 461266

**ANSWER TO UNVERIFIED  
COMPLAINT**

**BY FAX**

Complaint Filed: March 2, 2007

20 COMES NOW Defendant TARGET STORES, a division of Target Corporation, and for  
21 its answer to the unverified complaint of plaintiff ROBERTA STANTON, on file herein, admits,  
22 denies and alleges as follows:

23 Under the provisions of §431.30(d) of the California Code of Civil Procedure, this  
24 answering defendant denies each and every, all and singular, generally and specifically, the  
25 allegations contained in said complaint and further denies that plaintiff has been damaged in any  
26 sum or sums, or at all, by reason of any act or omission on the part of this answering defendant.

27 AS A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE  
28 UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION  
THEREOF, this answering defendant is informed and believes and thereon alleges that neither the  
complaint nor any of its alleged causes of action states facts sufficient to constitute a cause of  
action against this answering defendant.

-1-

ANSWER TO UNVERIFIED COMPLAINT - Case No. CIV 461266

11028963 ff-4/23/2007 11:04:39 AM

**EXHIBIT C**

1       **AS A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**  
2 **UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
3 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff  
4 failed to mitigate her alleged damages as required by law.

5       **AS A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**  
6 **UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
7 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff  
8 was comparatively at fault in the manner and style as set forth in the case of *Li v. Yellow Cab Co.*  
9 (1975) 13 Cal.3d 804, and defendant prays that any and all damages sustained by said plaintiff be  
10 reduced by the percentage of her negligence.

11       **AS A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**  
12 **UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
13 **THEREOF**, this answering defendant is informed and believes and thereon alleges that the  
14 damages complained of, if any there were, were proximately contributed to or caused by the  
15 carelessness, negligence, fault or defects created by the remaining parties in this action, or by other  
16 persons, corporations or business entities unknown to this answering defendant at this time, and  
17 were not caused in any way by this answering defendant, or by persons for whom this answering  
18 defendant is legally liable.

19       Should this answering defendant be found liable to plaintiff, which liability is expressly  
20 denied, said defendant is entitled to have this award against it abated, reduced or eliminated to the  
21 extent that the negligence, carelessness, fault or defects created by the remaining parties in this  
22 action, or by said other persons, corporations or business entities, contributed to plaintiff's  
23 damages, if any.

24       **AS A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**  
25 **UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
26 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff  
27 knew, or in the exercise of ordinary care should have known, of the risks and hazards involved in  
28 the undertaking in which she was engaged, but nevertheless and knowing these things, did freely

1 and voluntarily consent to assume all the risks and hazards involved in the undertaking.

2 AS A SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE  
3 UNVERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION  
4 THEREOF, this answering defendant is informed and believes and thereon alleges that at all  
5 times herein mentioned plaintiff was in the course and scope of employment for her employer.  
6 The injury sustained by plaintiff, if any, was caused by or was contributed to by the carelessness  
7 and negligence of plaintiff's said employer; and from any award made to plaintiff, this defendant is  
8 entitled to a set-off in an amount to the extent said employer's Workman's Compensation Insurance  
9 carrier made payments to and on behalf of plaintiff as a result of the alleged incident.

10 WHEREFORE, this answering defendant prays as follows:

- 11 1. That plaintiff take nothing by her complaint and that this answering defendant be  
12 dismissed hence;
- 13 2. For reasonable attorneys' fees;
- 14 3. For costs of suit incurred herein; and
- 15 4. For such other and further relief as the Court deems fit and proper.

16 DATED: April 23, 2007

BOORNAZIAN, JENSEN & GARTHE  
A Professional Corporation

19 By: \_\_\_\_\_

GAIL C. TRABISH, ESQ.  
Attorneys for Defendant  
TARGET STORES, a division of  
Target Corporation

22 24901\403213

**PROOF OF SERVICE BY MAIL**  
**(C.C.P. SECTIONS 1013(a) -2015.5)**

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the **ANSWER TO UNVERIFIED COMPLAINT**, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Wayne R. Wolski, Esq.  
Law Offices of Wayne R. Wolski  
713 Spring Street  
Santa Rosa, CA 95404  
(707) 542-4519 Phone  
(707) 542-7139 Fax

**Attorneys for Plaintiff**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on April 23, 2007.



Alexine L. Braun

24901\403213

**CERTIFICATE OF SERVICE**  
**(28 U.S.C. §1746)**

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.


I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the **PETITION FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §1441(b) [DIVERSITY]; CIVIL CASE COVER SHEET**, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Wayne R. Wolski, Esq.  
Law Offices of Wayne R. Wolski  
713 Spring Street  
Santa Rosa, CA 95404  
(707) 542-4519 Phone  
(707) 542-7139 Fax

**Attorneys for Plaintiff**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on July 9, 2007.

  
\_\_\_\_\_  
Alexine L. Braun

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